

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PENNSYLVANIA AVENUE FUNDS, On
Behalf of Itself and All Others Similarly
Situated,

Plaintiff,

v.

EDWARD J. BOREY, et al.,

Defendants,

CASE NO.: C06-1737-RAJ

**JOINT MEET AND CONFER
STATEMENT AND STIPULATION
AND [PROPOSED] ORDER
REGARDING BRIEFING SCHEDULE
FOR MOTIONS TO DISMISS**

WHEREAS on February 13, 2008, the Court granted the motion by Vector Capital Corporation, Vector Capital III, L.P. and Alexander Slusky (collectively the “Vector Defendants”) to dismiss Plaintiff Pennsylvania Avenue Funds’ (“Plaintiff”) federal securities law claims (Docket #107), dismissing Plaintiff’s fraud and insider trading claims under the Williams Act with prejudice, and granting Plaintiff leave to amend its cause of action for insider trading under 10b-5;

WHEREAS on February 13, 2008, the Court granted the motion to dismiss submitted by Edward J. Borey, Steven N. Moore, Michael R. Kourey, Michael R. Hallman, Richard A. LeFaivre, and William J. Schroeder (collectively the “Director Defendants”) (Docket #108) with leave to amend;

1 WHEREAS on February 21, 2008, the Court granted Defendants' motion to dismiss
2 Plaintiff's antitrust claim with prejudice (Docket # 109);

3 WHEREAS on March 14, 2008, Plaintiff filed a proposed Second Amended
4 Complaint Based Upon Self-Dealing Breach of Fiduciary Duties And Violations of the
5 Federal Securities Laws (the "Second Amended Complaint" or "SAC") (Docket #113),
6 alleging claims against the Director Defendants, the Vector Defendants, and Francisco
7 Partners, L.P. and Gladiator Corporation (the "FP Defendants");

8 WHEREAS, on March 28, 2008, the Court issued a Minute Order (the "Minute
9 Order") directing the parties to meet and confer regarding motions to dismiss the Second
10 Amended Complaint, if any, and an appropriate briefing schedule for any motions;

11 WHEREAS, on April 4 and 9, 2008, counsel for the Director Defendants, FP
12 Defendants, Vector Defendants and Plaintiff held a joint conference call to discuss the issues
13 identified in the Minute Order (the "Meet and Confer");

14 WHEREAS, during the Meet and Confer, Plaintiff indicated a willingness to augment
15 the complaint and/or provide further or more specific information if doing so would moot
16 Defendants' stated desire to again move to dismiss the SAC;

17 WHEREAS, in response, Defendants indicated that pursuant to this Court's prior
18 direction, Plaintiff had an obligation to include all information necessary to support its claims
19 in the SAC;

20 WHEREAS, Plaintiff disputes Defendants' characterization of not having included all
21 information necessary to support its claims in the SAC;

22 WHEREAS, during the Meet and Confer, the Director Defendants indicated that they
23 would file a motion to dismiss the SAC;

24 WHEREAS, during the Meet and Confer, the Vector Defendants: (1) urged Plaintiff to
25 withdraw its claims against the Vector Defendants because the new allegations failed to cure
26 the "typos" and other defects in Plaintiff's prior complaint; and (2) indicated that, should
27

Plaintiff not withdraw its claims against them, the Vector Defendants would file a motion to dismiss the SAC's Second, Third and Fourth causes of action;

WHEREAS, during the Meet and Confer, the FP Defendants indicated that they intended to file a motion to dismiss and/or strike Plaintiff's new allegations regarding the FP Defendants;

AND WHEREAS, during the Meet and Confer, the Defendants and Plaintiff discussed a briefing schedule for the above anticipated motions;

THEREFORE, the parties hereby stipulate and respectfully request that the Court enter an order as follows:

1. The Director Defendants, FP Defendants and Vector Defendants shall each file their motions to dismiss the SAC on or before May 14, 2008;

2. Plaintiff shall file its consolidated opposition to Defendants' motions on or before June 18, 2008;

3. The Director Defendants, FP Defendants, and Vector Defendants shall each file their respective replies, if any, to Plaintiff's oppositions on or before July 8, 2008;

4. The motions to dismiss shall be noted for consideration on July 8, 2008.

Dated: April 9, 2008

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[PROPOSED] ORDER

Upon stipulation of the parties and for good cause appearing, IT IS SO ORDERED

Dated: _____, 2008

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Presented by:

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CERTIFICATE OF SERVICE

I, Barry M. Kaplan, certify that on April 9, 2008, I caused the foregoing **JOINT MEET AND CONFER STATEMENT AND STIPULATION AND [PROPOSED] ORDER REGARDING BRIEFING SCHEDULE FOR MOTIONS TO DISMISS** to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following individuals:

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